

**STATE OF NORTH DAKOTA**  
**BEFORE THE COMMISSIONER OF INSURANCE**

**In the Matter of**

**Noridian Mutual Insurance Company, )  
FEIN 45-0173185, )**

**Respondent. )**

**CONSENT ORDER**

**FILE NO. MC-06-185**

Commissioner of Insurance Jim Poolman (hereinafter "Commissioner") has determined as follows:

1. The Commissioner has authority in this matter pursuant to N.D. Cent. Code Title 26.1.

2. Noridian Mutual Insurance Company, FEIN 45-0173185 (hereinafter "Respondent"), is a nonprofit mutual insurance company organized and governed by the laws of North Dakota.

3. On September 11, 2006, the Commissioner received a Market Conduct Examination Report of Respondent prepared by Huff Thomas & Company dated September 6, 2006. This report included findings related to Respondent failing to update its Medicare supplement policy form application and the replacement notice required by N.D. Admin. Code § 45-06-01.1-15(1) and failing to consistently provide the replacement notice as required by N.D. Admin. Code § 45-06-01.1-15(4) and (5).

4. Huff Thomas & Company examined 49 Medicare supplement files.

5. Of the 49 Medicare supplement files reviewed, six involved the replacement of an existing Medicare supplement policy. None of the six replacement files included the required replacement notice.

6. The Respondent has taken corrective action and implemented system enhancements to ensure that a Medicare supplement replacement policy will not be issued until confirmation that the replacement notice was provided as required by N.D. Admin. Code § 45-06-01.1-15(4) and (5), and this confirmation is received and entered into Respondent's system.

7. Respondent's failure to provide the Medicare supplement replacement notice is in violation of N.D. Admin. Code § 45-06-01.1-15(4) and (5).

8. The Commissioner adopted regulations revising the Medicare supplement policy application and replacement notice required by N.D. Admin. Code § 45-06-01.1-15(4) and (5) to include wording relevant to Medicare Part D and Medicare Advantage coverage, which revisions became effective on September 1, 2005.

9. Respondent failed to update both its Medicare supplement application and the replacement notice to comply with N.D. Adm. Code § 45-06-01.1-15(1), which became effective September 1, 2005. Respondent failed to include the wording relevant to Medicare Part D and Medicare Advantage coverage.

10. Respondent had filed with the Commissioner its Medicare supplement policy application, form number 20000018, with a revision date of 03-04; however, this form did not include the questions and statements required by the revised regulations.

11. Respondent submitted a revised and updated Medicare supplement application, form number 20000018, with the Commissioner, which was approved by the Commissioner on April 18, 2006.

12. Respondent's Medicare supplement form 20000018, revision 3-04, used by Respondent during the period September 1, 2005, through April 18, 2006, was not updated to include the wording required by N.D. Admin. Code § 45-06-01.1-15(1) relating to Medicare Advantage and Medicare Part D coverage and its use was in violation of N.D. Admin. Code § 45-06-01.1-15(1).

13. Respondent may be subjected to an administrative penalty pursuant to N.D. Cent. Code § 26.1-01-03.3.

14. Respondent has agreed to an informal disposition of this matter, without a hearing, as provided under N.D. Cent. Code § 28-32-22.

15. For purposes of resolving this matter, without further administrative proceedings, Respondent and the Commissioner have agreed to enter into the following Order.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. Respondent is assessed an administrative penalty in the amount of \$8,000 which shall be paid within 15 days of the execution of this Order.

2. The use of this Consent Order for competitive purposes by an insurance producer or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 22nd day of December, 2006.

  
Jim Poolman  
Commissioner of Insurance  
State of North Dakota

### CONSENT TO ENTRY OF ORDER

The undersigned, **Michael B. Unhjem**, on behalf of **Noridian Mutual Insurance Company**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to be represented by legal counsel, his right to a hearing in this matter, his right to present evidence and arguments to the Commissioner, and his right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he waives those rights in their entirety, and consents to entry of this Order by the Commissioner of Insurance. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 20th day of December, 2006.

Noridian Mutual Insurance Company

By:

  
Michael B. Unhjem

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President and CEO

Subscribed and sworn to before me this 20th day of December, 2006.

  
Notary Public

My commission expires: 1/30/07

DORIS SKROVE  
Notary Public  
State of North Dakota  
My Commission Expires Jan. 30, 2007